



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,828	10/12/2000	James Paschal McCloskey	MSX 302RI	9910

7590 05/09/2008
Kolisch Hartwell Dickinson McCormack & Heuser
520 S W Yamhill Street
Suite 200
Portland, OR 97204

EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT	PAPER NUMBER
----------	--------------

3653

MAIL DATE	DELIVERY MODE
-----------	---------------

05/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Examiner-Initiated Interview Summary	Application No.	Applicant(s)	
	09/687,828	MCCLOSKEY, JAMES PASCHAL	
	Examiner	Art Unit	
	JOSEPH C. RODRIGUEZ	3653	

All Participants:

(1) JOSEPH C. RODRIGUEZ.

(2) Peter Heuser.

Date of Interview: 5 May 2008

Type of Interview:

☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☐ No
If Yes, provide a brief description: .

Part I.

Rejection(s) discussed:
N/A

Claims discussed:
N/A

Prior art documents discussed:
N/A

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:
See Continuation Sheet

Part III.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.

☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

Status of Application: Final Rejection

(3) ____.

(4) ____.

Time: ____

/Joseph C Rodriguez/
Primary Examiner, Art Unit 3653

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed:

Examiner provided Applicant with an update on the status of the application and noted that the statement of error in the declaration filed 10/26/07 no longer applies to the claims submitted 10/26/07.

That is, Applicant has stated the error to be "the issued patent includes claims covering the stockpiling conveyor that are too narrow" and that "an example of narrowly claiming the stockpiling conveyor is shown in original independent claim 1 which recites that in the retracted position the "first upper part extends over the chassis" and that "such a limitation is not necessary to distinguish the invention from the prior art." However, reissue claim 1 is actually more narrow than original claim 1 since it includes the limitations of patent claims 2 and 5. Furthermore, reissue claim 1 still contains the limitation "first upper part extends over the chassis". Thus the claims are not broader, and applicant has not set forth a proper error statement. Consequently, the oath/declaration must be amended to avoid a rejection under 35 USC 251 based on a defective oath/declaration.